

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MANUEL MENCHACA,

Defendant.

8:12CR83

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's Motion for Correction of Sentence Pursuant to Title 18 U.S.C. § 3582(c)(2), ECF No. 134.

By stipulation of the parties, ECF No. 132, the Defendant received a reduction of sentence on December 17, 2015, pursuant to 18 U.S.C. § 3582(c)(2). See ECF No. 133. The Defendant, now acting pro se, questions why the reduction in his sentence was calculated by reducing his Total Offense Level by only one level, from 29 to 28, when his Base Offense Level was reduced two levels, from 32 to 30, in the retroactive calculation. See 2014 Drub Retroactive Sentencing Worksheet, ECF No. 117 and 134-1.

The Defendant's Sentencing Guidelines for Counts I and III were subject to a multiple count adjustment. See Presentence Investigation Report, ECF No. 99 at Page ID 385. When his adjusted offense level for Count I was 32 and his adjusted offense level for Count III was 22, the Counts were more than eight levels apart, and his combined offense level remained at 32. See United States Sentencing Guideline § 3D1.4. When his adjusted offense level for Count I was reduced to 30, the Counts were

eight levels apart, and his combined offense level was increased one level above the count with the highest offense level, resulting in a total offense level of 31.

Accordingly, there was no error in the Court's earlier Order, ECF No. 133.

IT IS ORDERED:

1. The Defendant's Motion for Correction of Sentence Pursuant to Title 18 U.S.C. § 3582(c)(2), ECF No. 134, is denied; and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address.

Dated this 17th day of December 2019.

BY THE COURT

s/Laurie Smith Camp
Senior United States District Judge